

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MEMORANDUM AND ORDER

This matter is before the Court upon the motion of Cartay A. Coleman to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 [Doc. #1].

Background

Movant pled guilty to one count of distributing cocaine base and possessing with intent to distribute cocaine base. See United States v. Coleman, No. 4:03CR719(ERW) (E.D. Mo.). On April 7, 2004, movant was sentenced to 145 months imprisonment and three years supervised release. *Id.* Movant did not appeal either his convictions or his sentences.

The motion

Movant alleges that his conviction and sentence are invalid under Booker v. United States, 125 S. Ct. 738 (2005).

Discussion

Title 28 U.S.C. § 2255 now provides that a one-year period of limitations applies to § 2255 motions. Because movant did not appeal his conviction and sentence, he had until approximately April 19, 2005, to file a § 2255 motion. The instant § 2255 motion was not filed until October 17, 2005. Therefore, the instant § 2255 motion is time barred.

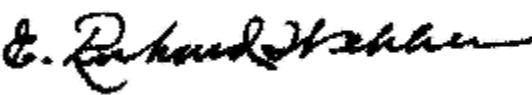
Additionally, the Supreme Court's decision in Booker does not apply retroactively to cases on collateral review. See Never Misses A Shot v. United States, 413 F.3d 781 (8th Cir. 2005).

In accordance with the foregoing,

IT IS HEREBY ORDERED that movant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 [Doc. #1] is **DISMISSED**, with prejudice.

An appropriate order shall accompany this memorandum and order.

So Ordered this 16th Day of November, 2005.


E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE